



JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: Martha M. Rivers Davisson

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1. Why do you want to serve as a Family Court Judge?

It would be an honor to serve my community and the State of South Carolina as a member of the judiciary. I believe I can help the families of South Carolina as a Family Court Judge. As a Family Court attorney for almost twenty years, I have enjoyed building relationships with clients of all walks of life. I truly enjoy my work in the courtroom. I believe I can now use my knowledge gained from my clients and courtroom experience to help the children and families best as a judge rather than an advocate. I would appreciate the opportunity to address these cases from the bench.

2. Do you plan to serve your full term if elected?

Yes, I intend to serve a full term if elected.

3. Do you have any plans to return to private practice one day?

I do not intend to return to private practice if elected.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

Yes, I have resided in South Carolina my entire life, am forty-four years old, and have practiced law since 1996.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Ex parte communications regarding family court cases should not be tolerated except where allowed for requests for emergency relief. Acceptable *ex parte* requests for emergency relief may include where affidavit or other evidence shows a credible threat to the safety of a child

or party, regarding the removal of the child from this state, or where there is a need for emergency custody. In these situations, the court must set a time for a hearing to afford all parties due process.

Limited *ex parte* communication is allowed in routine scheduling issues. A judge should exercise caution in such matters as these communications can easily give the appearance of an improper communication or present the opportunity for a more in depth conversation regarding the issues of a case. Therefore, such communication should be avoided if possible. The practice of scheduling conferences, conducted by phone or in person, and the use of email and fax communication to all attorneys simultaneously is the better practice.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

The Code of Judicial Conduct provides guidance in avoiding the appearance of impropriety and conflicts. It is essential that a judge's conduct promote public confidence in the integrity and impartiality of the judicial system. Even where the judge does not believe a prejudice, bias, or conflict exists, she must consider the appearance of impropriety from the perspective of the public.

I would recuse myself from any case involving a former client, clients of my former firm during the time of my employment there (August 1997 through August 2000), and any close friend or relative. I have not been an associate with another lawyer for more than ten years and was not in a partnership relationship at my former law firm. If either of the attorneys I worked with ten years ago appeared before me, I would inform opposing counsel of this prior relationship and offer the opportunity for either party to request recusal. To avoid the appearance of impropriety, I believe I would recuse myself from any case involving either attorney upon request by either party.

In the matter of lawyer-legislators, I do not believe it is prudent or necessary to recuse myself in all matters involving a lawyer-legislator. I would treat the lawyer-legislator in the same manner as all litigants and recuse myself if I had a close friendship or other special relationship with that legislator.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

The appearance of bias affects the credibility of the bench such that I would give deference to the party requesting recusal. Of course, each situation must be addressed at the given time and with particularity to the circumstances presented in light of the Code of Judicial Conduct.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

I believe these situations must be handled in a manner similar as if I were the person with the financial or social involvement. I would recuse myself in any matter affecting the financial or social involvement of my spouse or relative. There are matters that are not directly impacting the financial, business or social status of a relative that still may present the appearance of impropriety. I hope that any such situation would become apparent promptly in the case and would recuse myself.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would not accept gifts from anyone who is not a close friend or relative because it would suggest a bias or prejudice. The judicial canons allow a judge to accept items of social hospitality and gifts at times of social custom, such as weddings and anniversaries. The gift must be one that fits the occasion as well.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

The Rules of Professional Responsibility and Code of Judicial Conduct require the reporting of a lawyer or judge who violates the Rules of Professional Conduct in a substantial manner raising a question as to her honesty, trustworthiness or fitness to practice law. For other matters, a judge may take direct action, including discussing the matter with the attorney or judge. I intend to follow these rules if faced with an issue of misconduct of a lawyer or fellow judge.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?

No

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

No, I would close my practice and attempt to collect all outstanding bills or make arrangements for successor attorneys to handle all cases. I would not maintain the business.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

I would follow the current practice of asking one or both of the lawyers in the case to prepare a proposed order. There are a growing number of pro se matters before the family court such as the Self-Represented Litigant divorce actions. In those situations, I would attempt to issue a bench form order. If the matter required a more detailed order, I would prepare it.

If I took a matter under consideration prior to issuing a ruling, I would send instructions to the appropriate attorney for drafting the order and copy the opposing attorney with the instructions in a like manner or I would draft the order myself.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

I currently use a computer calendar which can be synchronized with my iPad and iPhone for mobile availability. A master calendar can be set with reminders, contact information, and deadlines. I would also maintain a paper system for more detailed information about instructions for orders and deadlines for submission of orders. The paper system would serve as a backup to the computer calendar.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

S.C. Code § 63-3-830 details the responsibilities of the *Guardian ad Litem*. The potential risk is that a *guardian* is not conducting a full and balanced investigation. Requiring involvement of the *guardian* at scheduling conferences and temporary hearings provides the parties and the court an opportunity to determine the breadth of the investigation. Requiring interim reports of the *guardian* at certain points during the pendency of the action also ensures that the *guardian* progresses in the investigation.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

The primary public policy promoted in family court is the best interests of the minor children. Other than this paramount consideration, a judge should be cognizant of the public policies as set by the legislative branch

and adhere to those policies as long as they are not in conflict with the constitution or a situation of conflicting statutory law.

“Judicial activism” often refers to the perception or reality of a judge following her personal philosophy in contradiction to the constitution or statutory law. I believe it is not a judge’s duty to set policy. That is the purview of the legislative branch. The judge must apply the law as written.

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

I would be glad to work with the South Carolina Bar and the judicial administration on any efforts to improve the family court system.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

I do not believe service as a family court judge would strain my personal relationships any more so than running a law office. I currently maintain a private practice office while raising my children. I do acknowledge that it will require a different schedule and out of town travel. I believe my family and I can make accommodations for these requirements. In my current lifestyle, I regularly answer emails outside of office hours, visit my office on weekends to work, and bring work home.

19. Would you give any special considerations to a *pro se* litigant in family court?

A *pro se* litigant is generally not accustomed to the standards expected in court, procedural rules, or the legal knowledge expected of attorneys. A *pro se* litigant may erroneously attribute ill intent to a standard procedure. Therefore, I do believe the presence of a *pro se* litigant requires extra consideration in explanation as to the procedure of the hearing and the role of the court. However, the court cannot provide special assistance to the litigant in presenting his or her case or in following the rules of court.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

The primary investments of our family are held by large investments groups such as Fidelity and Vanguard. I do not foresee any potential conflict due to these investments.

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

If I was aware of the interest, I do not believe I would hear such a case. Even if *de minimis*, the financial interest would present the appearance of impropriety.

22. Do you belong to any organizations that discriminate based on race, religion, or gender?

No

23. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Yes.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

- a. Divorce and equitable distribution: 30%
- b. Child custody: 20%
- c. Adoption: 9%
- d. Abuse and neglect: 35%
- e. Juvenile cases: 6%

25. What do you feel is the appropriate demeanor for a judge?

A judge should be courteous and respectful of all persons in the courtroom. Although it is important for a judge to maintain control over the proceedings, I do not believe a judge should be demeaning to either attorneys or to the parties. The general public has limited experience in the courtroom. It is very important to be respectful and give each party the opportunity to present his/her case within the rules of court.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

To uphold the integrity of the judiciary, I believe this demeanor should apply in and outside of the courtroom.

27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

I do not believe anger is an appropriate response in court. I do believe it is appropriate to require respect of the law as well as of court personnel by all persons who come before the court, whether an attorney or a litigant.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Martha Rivers De
(Candidate Signature)

Sworn to before me this 26 day of July, 2016.

Janet S. Carter
(Notary Signature)
Janet S. Carter
(Print name)

Notary Public for South Carolina

My Commission Expires: 1/31/2023